

November 24, 2008

TO: ALL OFFERORS

FROM: HOLLYLYNN FORD, CPPB
STATE CONTRACT PROCUREMENT OFFICER

SUBJECT: ADDENDUM TO REQUEST FOR PROPOSAL NO.: **GSS059A-MUNICIPAL LS**
Master Municipal Lease/Purchasing Agreement

ADDENDUM #3

This addendum is to advise all offerors of questions and answers received.

1. The RFP mentions a “contract” to be entered into between the State and the successful bidder. Does the State have a standard form for the master lease-purchase agreement and its takedown financing schedules? If so, can said forms be supplied to the bidders for review? If not, then will the State and the successful bidder negotiate a form of “contract” based on forms submitted by the successful bidder?

No, the State does not have a standard form. The State of Delaware invites all proposers to submit a proposed contract with their proposal. However, such a submittal is not deemed necessary for a proposal to be considered responsive.

2. The RFP mentions the ability of a “Non-Executive Agency” to utilize the pricing offered by the successful bidder. Will a bid be rejected or adversely affected if the bid states that any financing for a “Non-Executive Agency” will be subject to separate review and credit and pricing approval in each case at the sole discretion of the bidder?

Should the proposer take exception to any term, clause or requirement found within the RFP, it must take exception to that term, clause or requirement as stated in the RFP. The act of taking an exception to a term, clause or requirement within the RFP will not cause the bid to be rejected on its face. The State will consider all exceptions and determine whether the State will accept or reject the exception.

3. If the successful bidder is subject to a sales tax on the installment payments payable by the State under a lease-purchase agreement or if the interest of the successful bidder in the equipment or the lease-purchase agreement is subject to a property tax or other state or local tax in Delaware, will the State reimburse the bidder’s payment of such taxes? In considering its answer to this question, the State may exclude any taxes based on the net income of the successful bidder associated with a lease-purchase agreement or its installment payments.
[General Provisions, Section C, paragraph 6]

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However, it is noted that the State of Delaware is tax exempt and does not expect to pay or reimburse a proposer for taxes.

4. Will a bid be rejected or adversely affected if the bid states that any renewal beyond the original two year period remains subject to the written approval of the successful bidder in its sole discretion? [Special Provisions, paragraph 4]

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5. Will a bid be rejected or adversely affected if the bid states that any extension on a month-to-month basis remains subject to the written approval of the successful bidder in its sole discretion? [General Provisions, Section B, paragraph 7]

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6. Will a bid be rejected or adversely affected if the bid states that the successful bidder will not offer any product warranties or other policy or product guarantees for the equipment financed by the successful bidder? [General Provisions, Section B, paragraph 4]

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However, it should be noted for the purposes of this specific requirement, the State does not expect a warranty of the product being financed to be provided by the proposer. However, if the proposer has any other form of warranty or guarantee of its own it wishes to offer, the State asks that this information to be included in the proposal.

7. If the State exercises its right to terminate the RFP and its master lease-purchase agreement, either a termination for convenience or for cause, will the State agree that any such termination will not apply to terminate any financing that is subject to a closed and funded lease-purchase contract? [General Provisions, Section B, paragraphs 8 and 9; Special Provisions, paragraphs 27 and 37]

Yes, the individual schedules created under the master lease purchase agreement will survive these termination clauses.

8. Is the State willing to provide that any indemnity provided by the successful bidder will be based on claims, costs and expenses incurred as a direct result of the negligence or misconduct of the successful bidder or its employees and agents?

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9. Will a bid be rejected or adversely affected if the bid states that the successful bidder will **not** modify the pricing or other terms and conditions of the submitted bid based on a “most-favored customer” clause in the RFP? [Special Provisions, paragraph 6]

Should the proposer take exception to any term, clause or requirement found within the RFP, it must take exception to that term, clause or requirement as stated in the RFP. The act of taking an exception to a term, clause or requirement within the RFP will not cause the bid to be rejected on its face. The State will consider all exceptions and determine whether the State will accept or reject the exception.

10. Will a bid be rejected or adversely affected if the bid states that the successful bidder will not provide any insurance coverage? [Special Provisions, paragraph 10]

Yes. Proposers must provide proof of insurance coverage. If the proposer does not carry commercial insurance but is self insured then they must provide documentation to that effect with their proposal. The State will consider either commercial insurance or a self insured program. Failure to provide insurance causes the proposal to be non-responsive.

11. If the State breaches any of its covenants in a lease-purchase agreement between the State and the successful bidder or if the State otherwise defaults under any such lease-purchase agreement, will the State waive its rights of sovereign immunity so that the successful bidder may enforce its rights under such lease-purchase agreement?

This question is addressed on page 15 in section 12, Hold Harmless, of the RFP.

12. Will the State agree that a successful bidder may assign its rights under a funded lease-purchase agreement (a) to its parent company without the prior written consent of the State and/or (b) to another financial institution with the prior written consent of the State so long as the State's consent is not unreasonably withheld or delayed?

Should the proposer take exception to any term, clause or requirement found within the RFP, it must take exception to that term, clause or requirement as stated in the RFP. The act of taking an exception to a term, clause or requirement within the RFP will not cause the bid to be rejected on its face. The State will consider all exceptions and determine whether the State will accept or reject the exception.

13. Will a bid be rejected or adversely affected if the bid offers a pricing index based on an index other than US government treasury rates? Is the State willing to consider pricing that is based on an index of like-term SWAPs from H.15 Federal Reserve Statistical Release? [Scope of Work, Part II, paragraph A]

Should the proposer take exception to any term, clause or requirement found within the RFP, it must take exception to that term, clause or requirement as stated in the RFP. The act of taking an exception to a term, clause or requirement within the RFP will not cause the bid to be rejected on its face. The State will consider all exceptions and determine whether the State will accept or reject the exception.

14. Will a bid be rejected or adversely affected if the bid provides that any prepayment will be subject to a premium or may not be prepaid prior to a specified minimum term? [Scope of Work, Part II, paragraph D]

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The State will note that it does not pay for penalties or premiums. As state vehicles are routinely financed by using the master lease purchase agreement, the State needs to be able to prepay a portion, if not an entire schedule, when it is faced with a vehicle that is totaled. Should a totaled vehicle appear on a schedule with other vehicles that are still in good working order, the State must have the ability to pay off that vehicle on the schedule during the process of replacing it.

15. Will a bid be rejected or adversely affected if the bid states that the successful bidder will not provide a revolving credit facility such that any funding will permanently reduce the available credit offered by the successful bidder? [Scope of Work, Part II, paragraph G]

Should the proposer take exception to any term, clause or requirement found within the RFP, it must take exception to that term, clause or requirement as stated in the RFP. The act of taking an exception to a term, clause or requirement within the RFP will not cause the bid to be rejected on its face. The State will consider all exceptions and determine whether the State will accept or reject the exception.

16. Will title to and ownership of financed equipment vest with the State at the commencement of each lease-purchase agreement?

Yes, the State would take title.

17. Will the State grant the successful bidder a first and sole security interest in the financed equipment as collateral security for the State's obligations under the lease-purchase agreement executed for such financed equipment?

Yes. The State would grant the successful bidder a security interest.

All other terms and conditions remain the same.

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